

**REMARKS**

Claims 1-6 are pending in the outstanding Official Action, claims 1 and 6 being independent. In light of the remarks contained herein, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections.

In the outstanding Official Action, the Examiner rejected claims 1, 2, and 6 under 35 U.S.C. §103(a) as being unpatentable over *Moorman* (U.S. Patent No. 5,041,911) in view of *Ueno et al.* (U.S. Patent No. 5,625,415); and rejected claim 3 under 35 U.S.C. §103(a) as being unpatentable over *Moorman* in view of *Ueno* and further in view of *Takanashi et al.* (U.S. Patent No. 6,313,923). Applicant respectfully traverses these rejections.

Applicant wishes to thank the Examiner for noting claims 4 and 5 contain allowable subject matter.

**Claim Rejections- 35 U.S.C. §103 – Moorman/ Ueno**

In support of the Examiner's rejection of claim 1, the Examiner asserts *Moorman* discloses a gradation area dividing device, asserting *Moorman* teaches a digital signal processor 40 acting as both the gradation area dividing device and the color coding device as the input digital code values (luminance values) are mapped into capital RGB output code values cited in column 3, lines 60-68. The Examiner further asserts it is clear the images are divided into areas of gradation coarser than gradations in the image capturing, citing the column 4, lines 1-68. Applicant respectfully disagrees with the Examiner's characterization of this reference.

It is respectfully submitted that the disclosure set forth in *Moorman* is directed to exposure information feedback in electronic and/or hybrid film/electronic cameras. Using electrical signals formed by the image capturing electronics of the camera, a pseudo colored image is formed and displayed based on the exposure of individual image sub-areas. A full tonal original image may be modified to provide an image having zones each with one selectable tonal value. Each zone formed represents a range of tones appearing in the original image (Abstract).

Specifically, at column 3, line 16 through column 4, line 68, *Moorman* teaches digital signal processor 40 receiving the digital code values from the memory 38. Under the control of the control circuit 50, the input digital code values are mapped to RGB output code values. This mapping first checks to see which "bin" the particular input code value falls into and then assigns one of a finite number of red, green and blue code values. The mapping is described in column 4, lines 1-68.

In contrast, the present invention as set forth in claim 1 recites, *inter alia*, an image capturing apparatus comprising a gradation area dividing device that processes the electronic image signals read from the imaging device so as to divide, according to predetermined luminance thresholds, an image obtained by an image capturing through the imaging system into areas of gradation coarser than gradations in the image capturing. It is respectfully submitted that while *Moorman* discloses mapping luminance values to RGB code values, there is no

discussion in *Moorman* that teaches or suggests a gradation area dividing device. *Moorman* merely teaches working with luminance values. There is no discussion in *Moorman* directed to gradation. It is well known that while gradation is related to luminance, the teaching of luminance does not infer any teachings of gradation.

It is respectfully submitted that *Ueno* fails to cure the deficiencies of the teachings of *Moorman* as *Ueno* fails to teach or suggest a gradation area dividing device as recited in claim 1. As such, it is respectfully submitted that the references cited by the Examiner, either alone or in combination, assuming the references are combinable, which Applicant does not admit, fail to teach or suggest all the elements as set forth in claim 1. Thus, it is respectfully submitted that claim 1 is not obvious over *Moorman* in view of *Ueno*.

It follows, from the above argument, that *Moorman* fails to teach or suggest the color coding device as recited in claim 1. As there is no teaching or discussion in *Moorman* directed to a gradation area dividing device, *Moorman* fails to teach or suggest a color coding device that generates an image signal representing a gradation area divided image as set forth in claim 1. As noted above, *Moorman* teaches mapping luminance values to RGB code values. There is no teaching or suggestion of a color coding device that generates an image signal representing a gradation area divided image. Again, *Ueno* fails to cure the deficiencies of the teachings of *Moorman* as *Ueno* fails to teach or suggest the color coding device as set forth in claim 1. As such, it is respectfully submitted that neither of the references, either alone or in combination, teach or suggest the color coding device

as set forth in claim. Thus, claim 1 is not obvious over *Moorman* in view of *Ueno*, et al.

Further in support of the Examiner's rejection of claim 1, the Examiner admits that *Moorman* fails to state that the system is able to select a gradation area and correct the image data or the exposure control based on the selected gradation area. The Examiner relies on *Ueno* to cure the deficiencies of the teachings of *Moorman* by asserting that *Ueno* teaches providing the user the ability to select an area of the pre-shot image for which to base an exposure value on. The brightness of the area indication 700 is used to calculate a new stop value and shutter speed. By allowing the user to select an area of image for which to base an exposure on the system has the ability to form an image of a subject of the users liking using a proper exposure cited in column 13, line 27 to column 14, line 48. It is respectfully submitted that the Examiner's presumption that brightness can be equated to gradation is incorrect. It is well known in the art that brightness is different from gradation and thus the fact that *Ueno* teaches considering the brightness to calculate a stop value and shutter speed is not sufficient to teach selecting a gradation area and correcting the image data where the exposure control based on the selected gradation area. As such, it is respectfully submitted that neither of the references, either alone or in combination, assuming these references are combinable, which Applicant does not admit, teach or suggest the claimed elements.

It is respectfully submitted that claims 2 and 3 are allowable for the reasons set forth above with regard to claim 1 at least based upon their dependency on claim 1. It is further respectfully submitted that claim 6 contains elements similar to those discussed above with regard to claim 1 and thus claim 6 is not obvious over *Moorman* in view *Ueno*.

**Conclusion**

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinet (Reg. No. 52,327) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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